

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:09cv109**

ERNEST H. MCDANIEL,

Plaintiff,

vs.

**MICHAEL ASTRUE,
Commissioner of Social Security**

Defendant.

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ORDER

THIS MATTER is before the Court on the Plaintiff's Motion for Summary Judgment [Doc. 8], the Defendant's Motion for Judgment on the Pleadings [Doc. 9], the Plaintiff's Motions to Receive New and Material Evidence [Docs. 11 & 12], and the Magistrate Judge's Memorandum and Recommendation [Doc. 12] regarding the disposition of those motions.

Pursuant to 28 U.S.C. § 636(b) and a specific Order of referral of the district court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider these pending motions in the above-captioned action and to submit to this Court a recommendation for the disposition of these motions.

On July 22, 2010, the Magistrate Judge filed a Memorandum and Recommendation [Doc. 16] in this case containing proposed conclusions of

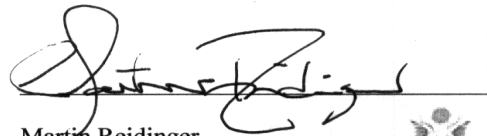
law in support of a recommendation regarding the motions [Doc. 8, 9, 11 and 12]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation [Doc. 16], the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby **ACCEPTS** the Magistrate Judge's Recommendation that the Defendant's Motion for Judgment on the Pleadings be allowed, and that the Plaintiff's Motions for Summary Judgment and receipt of New and Material Evidence be denied.

IT IS, THEREFORE, ORDERED that the Defendant's Motion for Summary Judgment [Doc. 9] is **ALLOWED**, and that the Plaintiff's Motions for Summary Judgment and receipt of New and Material Evidence [Docs. 8, 11 & 12] are hereby **DENIED**.

IT IS SO ORDERED.

Signed: August 12, 2010



Martin Reidinger
United States District Judge

